

SOUTH AFRICA / JUDGMENT

Absa Bank Limited v Retail Africa Wingspan Investments (Proprietary) Limited (87/LM/AUG08) [2008] ZACT 90 (22 October 2008) [2008] ZACT 90

COURT
Competition Tribunal

BEFORE
D Lewis, N Manoim, Y Carrim

CASE / FILE NUMBER
87/LM/AUG08

Source: saflii.org · Research copy typeset by Esheria. Not court-issued or certified.

IN THE COMPETITION TRIBUNAL OF SOUTH AFRICA

CASE NO: 87/LM/AUG08

In the merger between:

Absa Bank Limited Primary Acquiring Firm

and

Retail Africa Wingspan Investments (Proprietary) Limited Primary Target Firm

Panel : D Lewis (Presiding Member), N Manoim (Tribunal Member), and
Y Carrim (Tribunal Member)

Heard on : 8 October 2008

Order issued on : 8 October 2008

Reasons issued on : 22 October 2008

REASONS

FOR DECISION

APPROVAL

[1] On 8 October 2008 the Tribunal unconditionally approved the property merger between the aforementioned parties. The reasons for the decision follow:

THE MERGING PARTIES

- [2] The primary acquiring firm is ABSA Bank (“Absa”) which owns the following retail shopping centres: Ballito Junction; a neighborhood shopping centre situated in Ballito, Kwazulu Natal; Maxcity shopping centre; a community shopping centre situated in Mamelodi in Pretoria, Valley shopping centre; a neighbourhood shopping centre situated in Dainfern in Johannesburg, and Krugersdorp

shopping centre, a super-regional shopping centre in Krugersdorp, currently under construction.

- [3] The primary target firm is Retail Africa Wingspan Investments (“Wingspan”), a property fund which principally holds newly developed shopping centres, of which relevant to this transaction are five retail shopping centres: Irene Village Mall (Phase 1); a community shopping centre situated in Centurion, Irene Village Mall (Phase 2); a community shopping centre in Centurion still under construction, Westwood Mall; a regional shopping centre in Durban still under construction, West Coast Mall; a community shopping centre in Vredenburg which is still under construction, and the Village at Hartebeespoort (phase 1); a community shopping centre in Hartebeespoort which is also still under construction.
- [4] Wingspan is jointly controlled by Eygenberger Investment, Kruger Investment Trust, Oak Tree Trust, Pickard Investment Trust and Wingspan Investment Trust, which in turn are jointly controlled by Rapfund Holdings, Retail Africa (Pty) Ltd and Retail Africa Asset Management (Pty) Ltd.

THE TRANSACTION AND RATIONALE

- [5] In terms of the transactions ABSA intends to acquire 30% of the entire issued share capital of Wingspan with minority protection rights relating to material strategic and commercial decisions. The existing Wingspan shareholders will dilute their shares pro rata to facilitate the 30% purchase by Absa. Post transaction no single shareholder will be able to exercise sole control over Wingspan, but Absa is in a position to exercise joint control with one or more of the minority shareholders.¹
- [6] According to Absa the proposed transaction is part of its wider property investment strategy. Wingspan’s shareholders regard this as an opportunity to generate cash to fund future expansion and growth opportunities.

COMPETITION EVALUATION

- [7] According to the Commission and the parties, there is a minor overlap in respect of community shopping centres, however there is no geographic overlap as Absa does not have any community or other shopping centre in Centurion, Vredenburg and Hartebeespoort where Wingspan’s properties are situated.²

CONCLUSION

[8] In light of the above, we find that this merger will not result in any substantial lessening or prevention of competition in any of the relevant markets in the property sector. Accordingly, we approve the merger without conditions.

[9] There are no public interest issues.

___ 22 October 2008

N Manoim Date

Tribunal Member

D Lewis and Y Carrim concur in the judgment of N Manoim

For the merging parties : M. Griffiths and A. van Loggerenberg

For the Commission : K. Mahlakoane

(Mergers and Acquisitions)

Tribunal Researcher: L Xaba

1 The balance of the shares in Wingspan (i.e. 70%) will be retained by the existing shareholders – Eygenberger Trust (14.31), Kruger Trust (17.11%), Oak Tree Trust (1.40%), Pickard Trust (18.50%), Wingspan Investment Trust(18.50%), and Cahi (0.17%).

2 Shopping centres are defined according to size. The phrase community shopping centre refers thus to the centres size and not its location.

i See recent transaction between Absa and Ballito Junction which we unconditionally approved on 23 September 2008 – Case No: 84/LM/Aug08.

3

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.saflii.org/za/cases/ZACT/2008/90.html>

CASE PAGE <https://chat.esheria.ai/case-law/south-africa/absa-bank-limited-v-retail-unknown-topic-act-2008>

Prepared on 12 October 2026 · Esheria